

## REMARKS

The Amendment is submitted in reply to the final Office Action dated January 12, 2006. No fee is due in connection with this Amendment. The Director is authorized to charge any additional fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-365 on the account statement.

Claims 1, 3-4, 6, 8, 10-11, 14, 16, 18 and 63-64 are pending in this application. Claims 2, 5, 7, 9, 12-13, 15, 17 and 19-22 were previously canceled. Claims 23-62 were previously withdrawn. In the Office Action, Claims 8 and 16 are objected to, Claims 1, 3-4, 6, 8, 10 and 63-64 are rejected under 35 U.S.C. §112, first paragraph, Claims 1, 3-4, 6, 8, 10-12, 14, 16, 18 and 63-64 are rejected under 35 U.S.C. §102 and Claims 1 and 11 are rejected under 35 U.S.C. §103. In response, Claims 1, 8, 11, 16 and 63 have been amended. This amendment does not add new matter. In view of the amendments and/or for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 8 and 16 are objected to. In response, Claims 8 and 16 have been amended to address the informalities cited by the Patent Office. Accordingly, Applicants respectfully request that the objection to Claims 8 and 16 be withdrawn.

In the Office Action, Claims 1, 3-4, 6, 8, 10 and 63-64 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Specifically, the Patent Office alleges that the claims, broadly drawn to prevent inflammation in a mammal, are not enabled by the specification. In response, Applicants have amended independent Claims 1 and 63 to recite, in part, inhibiting inflammation. The amendment is supported in the specification, for example, at page 20, line 11 to page 21, line 15. The Patent Office admits same. See, Office Action, page 3. Based on at least these noted reasons, Applicants believe that Claims 1, 3-4, 6, 8, 10 and 63-64 fully comply with 35 U.S.C. §112, first paragraph. Accordingly, Applicants respectfully request that the rejection of Claims 1, 3-4, 6, 8, 10 and 63-64 under 35 U.S.C. §112, first paragraph, be withdrawn.

In the Office Action, Claims 1, 3-4, 6, 8, 10-12, 14, 16, 18 and 63-64 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,645,534 to Hermand ("*Hermand*"). Applicants believe this rejection is improper and respectfully traverse it for at least the reasons set forth below.

Applicants have amended independent Claims 1, 11 and 19 to recite, in part, a composition comprising a therapeutically effective amount of a plant material that is thermally processed and that includes one or more phytochemical agents or active fragments capable of preventing inflammation in a mammal, wherein the composition further comprises a component selected from the group consisting of a starch source, a protein source, a fat source and combinations thereof. The amendments are supported in the specification, for example, at page 10, line 28 to page 14, line 6. In alternative embodiments, the present invention is directed, in part, to food compositions for consumption by pets and humans to inhibit inflammation in the pets and humans.

In contrast, *Hermand* fails to disclose or suggest every element of the present claims. For example, *Hermand* fails to disclose a composition for preventing inflammation in a mammal that comprises a component selected from the group consisting of a starch source, a protein source, a fat source and combinations thereof as required by Claims 1, 11 and 63. Instead, *Hermand* is entirely directed to a process for the solvent extraction of active compounds from chicory root and extracts thereof. *Hermand* also only teaches a toothpaste and a mouthwash containing the extract made from the disclosed process. See, *Hermand*, columns 1-2. Consequently, *Hermand* fails to disclose or suggest any nutritional food compositions having a starch source, a protein source, a fat source and combinations thereof for consumption by pets and/or humans as required by the present claims.

For the reasons discussed above, Applicants respectfully submit that Claims 1, 11 and 63 and Claims 3-4, 6, 8, 10, 12, 14, 16, 18 and 64 that depend therefrom are novel, nonobvious and distinguishable from the cited reference.

Accordingly, Applicants respectfully request that the rejections of Claims 1, 3-4, 6, 8, 10-12, 14, 16, 18 and 63-64 under 35 U.S.C. §102 be withdrawn.

In the Office Action, Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Hermand*. Applicants believe this rejection is improper and respectfully traverse it for at least the reasons set forth below.

As previously discussed, *Hermand* fails to disclose a composition that comprises a component selected from the group consisting of a starch source, a protein source, a fat source and combinations thereof as required by Claims 1 and 11. For the reasons discussed above,

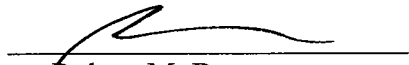
*Hermant* does not teach, suggest, or even disclose all the elements of the present claims and thus, fails to render the claimed subject matter obvious for at least these reasons.

Accordingly, Applicants respectfully request that the obviousness rejection with respect to Claims 1 and 11 be reconsidered and rejection be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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